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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,288	10/20/2000	Dean F. Jerding	A-6686	8077

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

EXAMINER	
BELIVEAU, SCOTT E	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/693,288	JERDING ET AL.	
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *83-111* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *83-111* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application (60/214,987) upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 83-107 of this application. While the provisional application discloses the general concept of facilitating the extension of a rental, the examiner cannot find support for the claimed limitation for "receiving . . . a first user input enabling the user to extend the access duration from the first value to a second value, based upon a third value specified by the user" set forth in claims 83 and 96. In particular, the provisional application discloses that the MSO may set-up extendable rental options (Rental Extension Options – Page 3) and that the user may extend a rental (Ease of Use – Page 7), but the provisional application does not clearly tie the two concepts together. For example, it is unclear if the user is provided with the ability to establish a particular extension period based upon a value specified by the user or if the MSO simply establishes a set/automatic rental extension period for a given program. Claims 86, 88, 94, 99, 101, and 106 are not supported as it is unclear that the "selectable option" is necessarily provided "during the first access duration" as opposed to after the expiration of the "first access period". Claims 89 and 102 are not supported as the earlier filling is silent as to "providing the user with information indicating an amount of playing time corresponding to a remainder of the on-demand movie". Claim 91 is not supported as the provisional application is silent with respect to the usage of different prices for extended access duration periods.

2. Applicant's claim for domestic priority to US App No. 09/590,520 under 35 U.S.C. 120 is acknowledged. However, the application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 83-107 of this application. As aforementioned, the examiner cannot find support for the claimed limitation for "receiving . . . a first user input enabling the user to extend the access duration from the first value to a second value, based upon a third value specified by the user" as set forth in claims 83 and 96". Accordingly, the instant application shall be evaluated on the basis of its filling date of 20 October 2000.

Response to Arguments

3. Applicant's arguments with respect to claims 83-111 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's argument that the subsequent purchase of another copy of the movie is not equivalent to a first user input enabling the user to extent the access duration, the examiner respectfully disagrees. Goode et al. discloses the initial purchase of an event by a given user for a particular access duration (use and/or view time). For example, a user may initially establish an access duration with a view time of 4 hours (ex. "first value"). If the user subsequently, reorders the presentation using the same terms (ex. "third value"), after having watched/accessed a 1 hour portion of the presentation, the user has effectively extended the access duration for that particular interactive media client from 4 hours to a "second value" or 5 hours based on to the sum of the originally utilized portion and the new rental terms or "third value".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 83-86, 91, 93-99, and 105-111 are rejected under 35 U.S.C. 102(e) as being anticipated by Goode et al. (US Pat No. 6,166,730).

In consideration of claim 83, Figure 1 of the Goode et al. reference illustrates a system for implementing a "method for providing a media service to a user" via an "interactive media services client" [118] which is coupled to a "programmable media services server device" [106]. The method comprises "receiving by the interactive media services client, a movie identification identifying an on-demand movie without a scheduled broadcast time" wherein the system "assigns an access duration [associated with the interactive media services client]" or use/view time "having a first value to the movie, responsive to receiving the movie identification" in conjunction with the video ordering process. Subsequently, the "interactive media services client" [118] "receives . . . during the access duration, at least a portion of the on-demand movie" from a "server" [106] "located remotely from the interactive media services client" (Figure 7; Col 14, Lines 11-25; Col 14 Line 55 – Col 15, Line 22).

With respect to the limitations pertaining to "receiving . . . during the access duration, a first user input enabling the user to extend the access duration", the limitations are met in accordance with the following implicit usage scenario involving two "interactive media service clients" [118] locatable within a household (Col 16, Line 60 – Col 20, Line 8). For clarity, the first terminal hereto merely referenced as "interactive media services client" [118] shall now be referenced as "interactive media services client" [118A] and the second "interactive media services client" shall be referenced as "interactive media services client" [118B] and all prior method steps are presumed to have been performed by "interactive media services client" [118A]. For example, it is assumed that the "interactive media services client" [118A] ordered an "on-demand movie without a scheduled broadcast time" having a user specified 4 hour period (ex. twice the length of the movie) and the user watched a portion of the movie. For the illustrative example, it is presumed that this user watches the watches the presentation for 1 hour before stopping the presentation and leaving the house. A second user in the household decides that they would like to watch the "on-demand movie" using their own "interactive media services client" [118B] and decides to start watching the movie as selected from the active program/saved movie screen (Figures 11-12) thereby starting the movie at the last viewing position of the first user (given that it is a VOD presentation the user could arguably continue watching from this point or choose to FF/REW to another point in the movie). Upon returning home 2 hours later (and still within the bounds of the original access duration) and with the second user still watching the presentation, the first user using "interactive media services client" [118A], is required to purchase another copy of the "on-demand movie" (Figure 10) in order to "enable the [user of

the] interactive media services client" [118A] to subsequently "access the on-demand movie" in order to continue watching it. Thereupon the method involves "receiving by the interactive media services client" [118A] a "during the access duration, a first user input enabling the user to extend the access duration from the first value" associated with the original 4 hours to "a second value" or 7 hours "based upon a third value" or 4 hours (ex. twice the length of the movie) "responsive to receiving the first user input" ordering another copy of the presentation for viewing on the "interactive media services client" [118A]; thereby "enabling by the interactive media client" [118A], the user to access the on-demand movie during the extended access duration, responsive to receiving the first user input". Should the second user continue to watch the presentation to its conclusion, the first user effectively is able to watch the movie with the first "interactive media services client" [118A] for a total of 5 hours or a net extension of 1 hour over and above the original rental term.

Claim 96 is rejected wherein the method set forth in claim 83 is implemented via a system comprising "at least one memory having stored thereon program code" [402] and "at least one processor that is programmed by at least the program code" [400] (Col 15, Lines 8-33).

Claims 84 and 97 are rejected wherein the user is "provided . . . with pricing information related to the extended access duration" (Col 4, Lines 33-46; Col 4, Line 63 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 2; Col 17, Lines 39-45).

Claims 85 and 98 are wherein the "interactive media services client" [118A] further "provides . . . the user with a selectable option . . . being configured to enable the user to extend the access duration from the first value to the second value" wherein the "interactive

media services client" [118] "receives . . . a user input corresponding to the selectable option" in association with selecting the new rental terms for in conjunction with the purchase of a second copy of the presentation (Figure 7; Col 14, Lines 11-25; Col 14 Line 55 – Col 15, Line 22).

Claims 86 and 99 are rejected wherein the first "interactive media services client [118A] further "provides . . . the user with a selectable option during the first access duration . . . being configured to enable the user to extend the access duration from the first value to the second value" wherein the "interactive media services client" [118A] "receives . . a user input corresponding to the selectable option" in association with selecting the new rental terms associated with the purchasing of a second copy of the presentation (Figure 7; Col 14, Lines 11-25; Col 14 Line 55 – Col 15, Line 22). In particular, the option must be provided during the "first access duration" or else a second or extended copy would not be offered / provided.

Claim 91 is rejected wherein the user is "charged" a "first price in connection with the first access duration" and a "second price in connection with the second access duration, wherein the first price is different from the second price" (Col 17, Lines 39-45).

Claims 93 and 105 are rejected wherein the Goode et al. reference explicitly incorporates a detailed description of the navigator presented in the Gordon et al. (US Pat No. 6,208,335) reference (Col 11, Lines 12-15). As illustrated in Figure 17 of the Gordon et al. reference, the system "provides said user" with information specifying the time in which the access duration expires or "information indicating an amount of time remaining in the access duration". For example, assuming that it is currently 5:58 PM, an informational message

specifying that the movie is going to expire at 8:58 PM Tonight is indicative of 3 hours remaining in the rental. The claim does not require that the message specify the actual amount of time remaining. This screen may be presented any point in time during the "first access duration" or "prior" to the "first user input" associated with ordering of a media presentation (Goode et al.: Figure 11; Col 17, Lines 55-67).

Claims 94 and 106 are rejected wherein the "interactive media services client" [118A] "outputs . . . at least a second portion of the on-demand movie" [750] to a "television coupled to the interactive media services client" [122] (Figure 7). Subsequently, the user "interrupts [at a current location] by the interactive media services client", the "output of the on-demand movie during the access duration" [815] (Figure 8) and "during a period between interrupt and the resume" the "first user input" (ex. selecting rental options or explicit terms of use) "enabling the user to extend the access duration from the first value to the second value is received". The "output of the on-demand movie at the current location [is subsequently resumed] by the [interactive media services client], responsive to a third user input" (ex. specifying purchase terms) thereby completing the order process (Figure 10).

Claims 95 and 107 are rejected wherein "during the extended access duration" , the "interactive media services client" [118A] "outputs . . . at least a second portion of the on-demand movie" [750] to a "television coupled to the interactive media services client" [122] (Figure 7).

Claims 108 and 110 are rejected wherein the Goode et al. reference "grants the interactive media services client" [118A] "access to the movie until the access duration has expired" in association with the terms of the rental (Col 16, Lines 47-59). For example, once

the access duration has "expired" and if the user is not currently watching the presentation, the user is unable to return to the presentation since the session will be deleted.

Claims 109 and 111 are rejected wherein the Goode et al. reference "grants the interactive media services client" [118A] "access to the movie during the whole of the access duration" in accordance with the terms of the rental (Col 16, Lines 47-59). For example, the user when initially purchasing the event is implicitly granted access in accordance with the rental terms. The particular client access terminal or user would be unable to access the first copy of the movie in whole due to another terminal accessing the first copy of the movie, however, such does not preclude that the terminal was originally granted access during the whole of the access duration in accordance with the terms of the rental.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the

time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 87, 88, 90, 100, 101, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat No. 6,166,730) in view of Lett et al. (US Pat No. 5,592,551).

In consideration of claims 87 and 100, the Goode et al. reference sets forth that in conjunction with ordering a video presentation that the user is capable of selecting rental terms including specifying the rental duration when purchasing a presentation thereby effectively extending the access duration of a rented presentation. The reference, however, is silent as to the composition of the interface wherein the user specifies the rental terms (Col 14, Line 63 – Col 15, Line 22) so as to clearly conclude that the user is "provided with a plurality of selectable options . . . being configured to enable the user to extend the access duration from the first value according to the corresponding value of a selected option from the plurality of options . . . including on corresponding to the third value". In essence, it is unclear that the user of the Goode et al. system is provided with a list of available access durations from which to choose in connection with ordering the presentation, which would render the claim anticipated.

In a related art pertaining to the ordering of video-on-demand presentations, Figure 13 of the Lett et al. reference, provides evidence that it is known in the art to provide the user with a "plurality of selectable options" specifying access durations in connection with ordering of programming (Lett et al.: Col 1, Lines 25-30; Col 16, Lines 37-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made so as to

provide the user with a "plurality of selectable options" in connection with ordering the on-demand movie for the purpose of providing a user-friendly and easy to use method for making the ordering of programs as easy as possible through the usage of selectable options (Lett et al.: Col 2, Lines 6-20). Accordingly, as modified, the Goode et al. reference in connection with the ordering of on-demand movies "provides by the interactive media services client" [118A] "the user with a plurality of selectable options" corresponding to particular rental durations which "enable the user to extend the access duration from the first value" associated with the original order to a second value "according to the corresponding value of a selected option from the plurality of options . . including one correspond to the third value" and subsequently, "receives by the interactive media services client" [118A] the "first user input corresponding to the one of the selectable options corresponding to the third value" thereby completing the order for the rental extension / second copy.

In consideration of claims 88 and 101, as aforementioned, it is unclear in connection with establishing rental terms in the ordering process of the second scenario if the user is necessarily provided with a "plurality of selectable options . . being configured to enable the user to extend the access duration from the first value to the second value". In a related art pertaining to the ordering of video-on-demand presentations, Figure 13 of the Lett et al. reference, provides evidence that it is known in the art to provide the user with a "plurality of selectable options" specifying access durations in connection with ordering of programming (Lett et al.: Col 1, Lines 25-30; Col 16, Lines 37-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made so as to provide the user with a "plurality of selectable options" in connection with ordering the on-demand movie for

the purpose of providing a user-friendly and easy to use method for making the ordering of programs as easy as possible through the usage of selectable options (Lett et al.: Col 2, Lines 6-20). Accordingly, as modified, the Goode et al. reference in connection with the ordering of on-demand movies in the second illustrative scenario "provides by the interactive media services client" [118A] "the user with a plurality of selectable options during the first access duration" corresponding to particular rental durations which "enable the user to extend the access duration from the first value to a second value" and subsequently, "receives by the interactive media services client" [118A] the "first user input corresponding to the one of the selectable options" thereby completing the order for the rental extension / second copy.

In consideration of claims 90 and 103, as illustrated in Figure 13 of Lett et al., the user is provided with "information identifying a plurality of prices wherein each of the plurality of prices corresponds to a respective one of the plurality of selectable options" such that rentals with a longer duration are charged higher prices than those of a shorter duration.

9. Claims 92 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat no. 6,166,730) in view of White et al. (US Pat No. 6,628,302).

In consideration of claims 92 and 104, as aforementioned, the Goode et al. reference explicitly incorporates a detailed description of the navigator presented in the Gordon et al. (US Pat No. 6,208,335) reference (Col 11, Lines 12-15). As illustrated in Figure 17 of the Gordon et al. reference, the system "provides the user" with information specifying the time in which the access duration expires. This screen may be presented any point in time during the "first access duration" or "prior" to the "first user input" associated with ordering of a media presentation (Goode et al.: Figure 11; Col 17, Lines 55-67). It is unclear, however, if

such information, in itself is indicative of "providing the user with information indicating that there is insufficient time remaining in the access duration to enable the user to view a remainder of the on-demand movie".

In a related art pertaining to video-on-demand systems, the White et al. reference provides evidence that it is known in the art to provide the user with information indicative of the amount of time remaining in a movie responsive to the movie being paused (White et al.: Col 4, Lines 38-49). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify White so to provide the user with information indicative of the amount of time remaining in a movie as taught by White et al. for the purpose of providing the user with helpful information in order to properly plan their television viewing (ex. Is there enough time for me to finish watching the movie before dinner). Accordingly, taken in combination, by providing the user with both the expiration time of the access duration, as well as the amount of playing time remaining in the movie, the combined references "prior to the step of receiving the first user input, provide the user with information indicating that there is insufficient time remaining in the access duration to enable the user to view a remainder of the on-demand movie".

10. Claims 89 and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat no. 6,166,730), in view of Lett et al. (US Pat No. 5,592,551), and in further view of White et al. (US Pat No. 6,628,302).

In consideration of claims 89 and 102, the Goode et al. reference is silent with respect to providing the user with "information indicating an amount of playing time corresponding to a remainder of the on-demand movie". In a related art pertaining to video-on-demand systems,

the White et al. reference provides evidence that it is known in the art to "provide [a] user with information regarding a media presentation remaining playing time corresponding to a remainder of the video presentation, the remainder being calculated from a current interruption point in the video presentation" (White et al.: Col 4, Lines 38-49). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to "provide said user with information regarding a media presentation remaining playing time corresponding to a remainder of the video presentation, the remainder being calculated from a current interruption point in the video presentation" for the purpose of providing the user with helpful information in order to properly plan their television viewing (ex. Is there enough time for me to finish watching the movie before dinner).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Swix et al. (US Pat No. 6,609,253) reference discloses a system and method for providing the user with an indication that there is insufficient time left in an access duration to perform trick-play functionality or to watch a remainder of the presentation.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Beliveau

Examiner
Art Unit 2614

SEB
November 26, 2005

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600